

PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD 201 <u>5</u> - <u>29</u>	
Acceptance Date:	<u>3-17-15</u>
Website Posting Date:	<u>3-17-15</u>
Determination Date:	<u>3-17-15</u>
Planning Commission Date:	<u>3-24-15</u>
Expiration Date:	
Planner Assigned:	<u>JG</u>

Instructions: File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know, due to proximity of the shoreline, that your parcel will require a Certified Shoreline Survey. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Applicant Information	
Applicant: <u>CAFE PORTOFINO</u>	
Address: <u>3610 RICE ST.</u>	
<u>LIHUE, KAUAI, HI. 96766</u>	
Phone: <u>808-826-4699</u>	Email: <u>schaller@aloha.net</u>
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input checked="" type="checkbox"/> Lessee of the Property	Lessee must have an unexpired and recorded lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: <u>3-04-2015</u>	

Project Information (attach additional sheets, if necessary)	
County Zoning District: <u>RR20</u>	Tax Map Key(s): <u>(4) 3-05-02:02</u>
	Land Area: <u>32.79ac</u>
Nature of Development: (Description of proposed Structure of subdivision)	<u>INTERIOR IMPROVEMENTS</u>

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

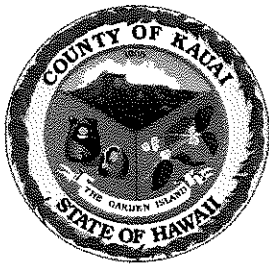
Part A

Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

- ☒ Properties Abutting the Shoreline
☒ Project's approximate distance from shoreline: 100 FT
- ☐ Properties Not Abutting the Shoreline
☐ Project's approximate distance from shoreline: _____
- ☐ Additional Information:
☐ Closest distance of improvement(s) from Shoreline is approximately _____ ft.
☐ Number of parcels and type of improvements (roads, buildings, structures) between Shoreline and this parcel:

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PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

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Planner Assigned:	

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

FLAT

- ☒ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

BEACH

- ☐ Artificially armored Shoreline
- ☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): _____
- ☐ Is the armoring permitted/authorized? _____
- ☐ Date of authorization (attach copy of authorization letter): _____
- ☒ Is property in coastal floodplain (if checked, what zone)? AE
- ☐ Has this property been subject to coastal hazards in the past? (If checked, please describe)

If the proposed structure or subdivision is within the shoreline setback area then, please be aware that if the determination of a structure is approved, the Applicant shall agree in writing that the Applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'i harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazards and coastal erosion, pursuant to §8-27.7(b)(2).

The requirements of the Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under §8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit. §8-27.7(b)(6).

Applicant's Signature

Signature

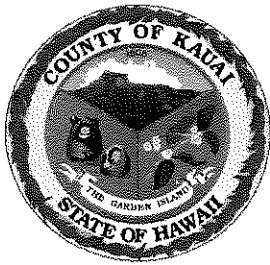
Date

Applicability (to be completed by Planning Department)

- ☒ Setback Determination necessary. Requirements of Ordinance No. 979 apply, submit full application.

Planning Director or designee

Date



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

Part B

Exemption Determination

- ☒ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(e))

☐ **Exemption 1**

In cases where the proposed structure or subdivision satisfies the following four criteria:

(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 'V' or 'VE' flood zones;

(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.

☐ **Exemption 2**

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.

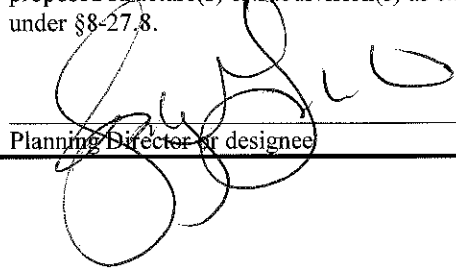
☒ **Exemption 3**

Those structures and uses found exempt in Table 3 (§8-27.7) (see pg. 5-6)

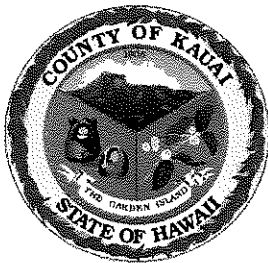
- ☐ Letter from the Department of Public Works stating that the proposed project does not constitute "Substantial Improvement," pursuant to §8-27.2

Exemption Determination (to be completed by Planning Department)

Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination required established under §8-27.8.


Planning Director or designee

3-17-15
Date



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

Table 3. This table is presented for Exemption 3 (§8-27.7).

Permitted Structures within the shoreline setback area	
(a)	The following structures are permitted in the shoreline setback area. All structures and/or landscaping not specifically permitted in the section are prohibited without a variance.
(1)	Existing conforming and nonconforming structures/activities
(2)	Structure or activity that received a shoreline variance or administrative approval prior to February 26, 2008.
(3)	A structure or activity that is necessary for, or ancillary to, continuation of agriculture or aquaculture existing on the shoreline setback area on June 16, 1989.
(4)	"Temporary structures" as defined in Section 8-27.2. To ensure that there will be no irreversible or long-term adverse effects, the Director shall require as a condition of a permit the restoration of the site to its original condition or better, and the Director may require a bond to ensure such restoration.
(5)	A structure that consists of maintenance, repair, reconstruction, and minor additions or alterations of legal boating, maritime, or water sports recreational facilities, which are publicly owned, and which result in no interference with natural beach processes; provided that permitted structures may be repaired, but shall not be enlarged within the shoreline setback area without a variance.
X (6)	Repairs to a lawfully existing structure, including nonconforming structures, provided that: <ul style="list-style-type: none"> (A) The repairs do not enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes; (B) The repairs do not constitute a substantial improvement of the structure; and (C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.
(7)	Beach nourishment or dune restoration projects approved by all applicable governmental agencies.
(8)	A structure approved by the Director as a minor structure.
(9)	Qualified demolition of existing structures.
(10)	Unmanned civil defense facilities installed for the primary purposes of: (i) warning the public of emergencies and disasters; or (ii) measuring and/or monitoring geological, meteorological and other events.
(11)	Scientific studies and surveys, including archaeological surveys.
(12)	Structures built by a governmental agency to address an emergency as declared by the Governor of the State of Hawai'i, the Mayor of the County of Kaua'i or any other public official authorized by the law to declare an emergency.
(13)	Structures relating to film productions that have received a County Revocable Film Permit. Structures undertaken for film productions must be removed within thirty (30) days following the completion of the film production.
(14)	Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai'i Revised Statutes.

MATTHEW SCHALLER, ARCHITECT INC.



MATTHEW SCHALLER, ARCHITECT ♦ P.O. BOX 120, HANAIEI, HAWAII, 96714
Phone (808) 826-4699 ♦ Fax (808) 826-9697

February 10, 2015
MICHAEL A. DAHILIG
Director of Planning
Planning Department
County of Kauai

DRAFT FOR DISCUSSION

Subject: NEW STAIRS AND WHEELCHAIR LIFT AT CAFÉ PORTOFINO EXIT
LANAI
MARRIOTT RESORT AND BEACH CLUB
Lihue, Kauai

Aloha Mr. Director

We are seeking a clarification regarding the proposed addition of a new set of stairs and a Wheelchair lift at the existing exit lanai of the Café' Portofino restaurant at the Kauai Marriott Resort and Beach Club. There is an existing sidewalk that would be accessed by the stairs and lift device. The new stairs and lift will make access and egress much safer and simpler than presently exists at this location.

The new Shoreline Setback and Coastal Protection rules allow for Minor Activity, and Minor Structures. Paragraph (2)E provides that "safety improvements" and "walkways for access" are included as Minor Structures since the cost would be less than \$125,000.00

This work is outside the setback area [150 ft +/-], but within 500ft of the shoreline. There is no detrimental effect to the shoreline or the setback area, and the safety improvements connect to a structure that has been in place prior to June 16 1989.

THANK YOU FOR YOUR CONSIDERATION.

REGARDS:

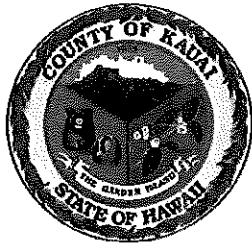
MATTHEW SCHALLER



Google earth

feet
meters





PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

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SSD 201 5 - 28

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Determination Date: 3-17-15

Planning Commission Date: 3-24-15

Expiration Date: 3-24-15

Planner Assigned: JG

Instructions: File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know, due to proximity of the shoreline, that your parcel will require a Certified Shoreline Survey. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Applicant Information

Applicant: Association of Apartment Owners of Poipu Point Eric Rimes -808.755.5584 Auth Agent
Address: 1613 Pe'e Road, Koloa, HI. 96756 Phone: Linda Riddle-702-823-7330
Email: erimes@laytonconstruction.com

Applicant's Status: (Check one)

- ☐ Owner of the Property (Holder of at least 75% of the equitable and legal title)
☐ Lessee of the Property Lessee must have an unexpired and recorded lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
☒ Authorized Agent Attach Letter of Authorization (SEE ATTACHED)

Transmittal Date: 2-10-15 3/4/15

Project Information (attach additional sheets, if necessary)

County Zoning District: Koloa Tax Map Key(s): 2-8-021-001
Land Area:

Nature of Development: The project is Temporary Stairs Structures at existing Buildings #9 and Building #10 located within the Point at Poipu Resorts located in Koloa, Hawaii
(Description of proposed Structure of subdivision)

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

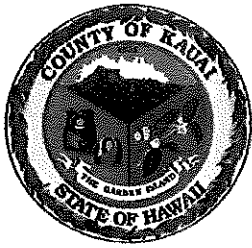
Part A

Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

- ☐ Properties Abutting the Shoreline
☐ Project's approximate distance from shoreline: 457 FEET & 1055 FEET
- ☐ Properties Not Abutting the Shoreline
☐ Project's approximate distance from shoreline: _____
- ☐ Additional Information:
☒ Closest distance of improvement(s) from Shoreline is approximately 457 ft.
☐ Number of parcels and type of improvements (roads, buildings, structures) between Shoreline and this parcel:

SEE ATTACHMENTS



PLANNING DEPARTMENT
SHORELINE SETBACK APPLICATION

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Expiration Date:	
Planner Assigned:	

- ☐ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

GRADUAL SLOPE (SEE ATTACHMENTS)

- ☐ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

ROCKY (SEE ATTACHMENTS)

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead):

☐ Is the armoring permitted/authorized?

☐ Date of authorization (attach copy of authorization letter):

- ☐ Is property in coastal floodplain (if checked, what zone)?

- ☐ Has this property been subject to coastal hazards in the past? (If checked, please describe)

If the proposed structure or subdivision is within the shoreline setback area then, please be aware that if the determination of a structure is approved, the Applicant shall agree in writing that the Applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'i harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazards and coastal erosion, pursuant to §8-27.7(b)(2).

The requirements of the Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under §8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit. §8-27.7(b)(6).

Applicant's Signature

Signature

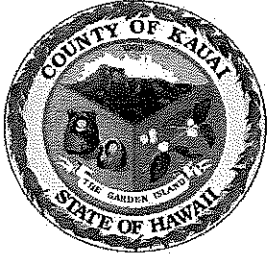
Date

Applicability (to be completed by Planning Department)

- ☒ Setback Determination necessary. Requirements of Ordinance No. 979 apply, submit full application.

Planning Director or designee

Date



PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

Part B

Exemption Determination

- ☐ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(c))

☐ **Exemption 1**

In cases where the proposed structure or subdivision satisfies the following four criteria:

(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 'V' or 'VE' flood zones;

(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.

☒ **Exemption 2**

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.

☐ **Exemption 3**

Those structures and uses found exempt in Table 3 (§8-27.7) (see pg. 5-6)

- ☐ Letter from the Department of Public Works stating that the proposed project does not constitute "Substantial Improvement," pursuant to §8-27.2

Exemption Determination (to be completed by Planning Department)

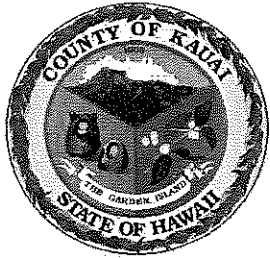
Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8.


Planning Director or designee

3/17/15
Date

Welcome Jody G:

Distance: 11.97 Feet



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Planner Assigned:	<u>JG</u>

Instructions: File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know, due to proximity of the shoreline, that your parcel will require a Certified Shoreline Survey. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Applicant Information	
Applicant: <u>CLIFFORD BENTSEN</u>	
Mailing Address: <u>2678 Puu Holo Rd</u> <u>Koloa HI 96756</u>	Phone: <u>742-9070</u> Email: <u>HOI9/ASS2008@MAC.COM</u>
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an unexpired and recorded lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District: _____	Tax Map Key(s): <u>4-2-6-7-5</u> Land Area: <u>10,562 SF.</u>
Nature of Development: (Description of proposed structure or subdivision)	<u>ADDITION of 9'x9' E-WALKWAY & ELEVATOR</u>

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

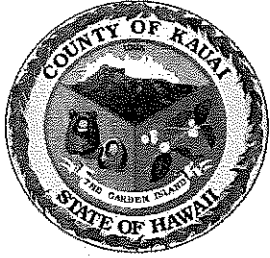
Part A

Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

- ☐ Properties Abutting the Shoreline
☐ Project's approximate distance from shoreline: _____
- ☒ Properties Not Abutting the Shoreline
☒ Project's approximate distance from shoreline: 553.51 feet
- ☐ Additional Information:
☐ Closest distance of improvement(s) from Shoreline is approximately _____ ft.
☐ Number of parcels and type of improvements (roads, buildings, structures) between Shoreline and this parcel:

6 Homes & 1 Condo project



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

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Planning Commission Date:	
Expiration Date:	
Planner Assigned:	

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

Level

- ☐ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): _____

☐ Is the armoring permitted/authorized? _____

☐ Date of authorization (attach copy of authorization letter): _____

- ☐ Is property in coastal floodplain (if checked, what zone)? _____

- ☐ Has this property been subject to coastal hazards in the past? (If checked, please describe)

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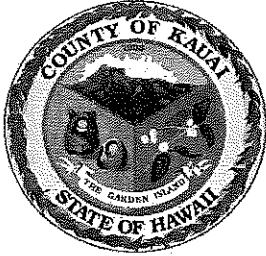
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Applicant's Signature

Signature Cheryl B.

Date March 16 2015

Applicability (to be completed by Planning Department)	
<input checked="" type="checkbox"/>	Setback Determination necessary. Requirements of Ordinance No. 979 are applicable.
<u>[Signature]</u>	<u>3-17-15</u>
Planning Director or designee	Date



PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

Part B

Exemption Determination

- ☒ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(e))

Exemption 1

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(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.

Exemption 2

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Exemption 3

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- ☐ Letter from the Department of Public Works stating that the proposed project does not constitute "Substantial Improvement," pursuant to §8-27.2

Exemption Determination (to be completed by Planning Department)

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Planning Director or designee

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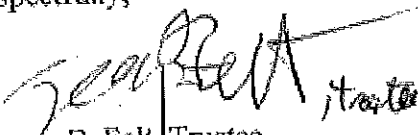
George B. Felt
Trustee for the Leah Louise Felt Christensen Irrevocable Trust, dtd. 05/01/2003
P. O. Box 9465
Salt Lake City, UT 84109

August 25, 2014

To Whom It May Concern:

As Trustee of the Leah Louise Felt Christensen Irrevocable Trust, dtd. 05/01/2003, I hereby authorize Andrew Vento to act as an agent of the trust and meet with all County of Kauai and State of Hawaii Agencies on behalf of the Trust and to have the authority to sign any and all forms and documents for and on behalf of the Trust.

Respectfully,


George B. Felt, Trustee

COPY

IRREVOCABLE TRUST
OF
LEAH LOUISE FELT CHRISTENSEN

THIS TRUST AGREEMENT is made this 7 day of February, 2003, by and between Leah Louise Felt Christensen, sometimes herein referred to as Grantor, and George B. Felt, or either of them, sometimes herein referred to as the Trustee, and shall be known as the Leah Louise Felt Christensen Irrevocable Trust.

ARTICLE I Trust Property. Grantor desires to create a trust for the benefit of Grantor and hereby irrevocably assigns to the Trustee in trust that certain property described in Schedule "A" attached hereto, hereinafter termed Trust Property, and made a part hereof by this reference, for the purposes and on the conditions hereinafter stated.

ARTICLE II Beneficiaries. Leah Louise Felt Christensen shall be the beneficiary of this trust during her lifetime. Upon such Grantor's death the beneficiaries shall be as follows:

a. Adrienne Louise Christensen — one (1) full equal share, or if she be dead then to her issue in equal per stirpes shares.

d. Trevor Ronald Christensen — one (1) full equal share, or if he be dead then to his issue in equal per stirpes shares.

ARTICLE III Duration of Trust. This trust automatically terminates on October 14, 2016 or upon Grantor's death, whichever comes first.

ARTICLE IV Disposition Provisions. The Trustee shall hold, manage, and invest the Trust Property; shall collect and receive the income thereof, if any; and after deducting all necessary expenses incident to the administration of this trust shall dispose of the corpus and income as follows:

a. The Trustee shall pay the entire net income of the trust, if any, at least annually to Grantor during Grantor's life and upon the Grantor's death to the herein above named beneficiaries.

b. The Trustee, in his or her absolute and sole discretion, may distribute the trust principal to maintain the Grantor's standard of living.

ARTICLE V Trustee Power. In the administration of this trust, the Trustee shall have the following powers, all of which shall be exercised in a fiduciary capacity, primarily in the interest of the beneficiary:

a. To hold and continue to hold as an investment the property received hereunder, and any additional property which may be received by the Trustee, so long as the Trustee deems such proper, and to invest and reinvest in any securities or property, whether or not income-producing, deemed by the Trustee to be for the best interest of the trust and the beneficiary hereunder, without being limited to trust or chancery investments as provided by law, and notwithstanding that the same may constitute leaseholds, royalty interest, patents, interests in mines, oil and gas wells, or timber lands, or other wasting assets, and without any responsibility for any depreciation or loss by or on account of such investments.

b. To rent or lease any property of the trust for such time and upon such terms and for such price or prices as the Trustee's sole discretion and judgment may seem just and proper and for the best interest of this trust and the beneficiary hereunder, irrespective of the provisions of any statute.

c. To sell and convey any property of the trust or any interest therein, or to exchange the same for other property, for such price or prices and upon such terms in the Trustee's sole discretion and judgment may be deemed for the best interest of this trust and the beneficiary hereunder, and to execute and deliver any deed or deeds (with or without warranty), receipts, releases, contracts, or other instruments necessary in connection therewith.

d. To make all repairs and improvements at any time deemed necessary and proper to and upon real property constituting a part of this trust, and to build, construct, and complete any building or buildings upon such property which in the Trustee's sole discretion and judgment may be deemed advisable and proper and for the best interest of the trust and the beneficiary hereunder, and to determine the extent to which the cost of such repairs and improvements shall be apportioned as between corpus and income.

e. To deduct, retain, expend, and pay out of any money belonging to the trust any and all necessary and property expenses in connection with the operation and conduct of the trust, and to pay all taxes, insurance premiums, and other legal assessments, debts, claims, or charges which at any time may be due and owing by, or which may exist against, the trust.

f. To compromise, settle, arbitrate, or defend any claim or demand in favor of or against the trust; to enforce any bonds, mortgages, security agreements, or other obligations or liens held hereunder; and to enter upon such contracts and agreements and to make such compromises or settlements of debts, claims, or controversies as she may deem necessary or advisable.

g. To incur and pay ordinary and necessary expenses administration of this trust, including (but not by way of limitation) reasonable attorneys' fees, accountants' fees, investment counsel fees, and the like.

h. To act hereunder through an agent or attorney-in-fact, by and under the power of attorney duly executed by the Trustee, in carrying out any of the powers and duties herein authorized.

